THE HON'BLE MR JUSTICE V ESWARAIAH
AND
THE HON'BLE SRI JUSTICE K.S.APPA RAO

A.S.M.P.No.1636 of 2008 in Rev.A.S.M.P(SR) No.7842 of 2008
In
A.S.No.1803 of 1999

JUDGMENT: (Per Hon'ble Sri Justice V.Eswaraiah)

This application is filed by the petitioner herein seeking to condone the delay of 1188 days in filing the review ASMP(SR) No.7842 of 2008. The petitioner herein is the 2nd respondent in A.S.No.1803 of 1999 filed by the respondents 1 to 3 herein against the order dated 23-4-1999 in O.P.No.37/1990, on the file of the Principal Senior Civil Judge, Warangal.

The petitioner herein is a claimant No.1 in the said O.P which relates to reference under Section 18 of the Land Acquisition Act, and on reference, the reference Court enhanced the compensation from Rs.22,500/- to Rs.25,000/- per acre apart from other additional benefits. Aggrieved by the same, the claimants 2 to 4 therein alone filed the present appeal making the petitioner herein as the respondent No.2 in the appeal.

Though, notice was served, the petitioner did not appear before this Court and this Court enhanced the compensation from Rs.25,000/- to Rs.48,000/- per acre holding that the appellants therein alone are entitled to the relief of the said Judgment and since the 2nd respondent therein, the petitioner herein did not prefer any appeal challenging the Award and the

Decree of the reference Court, the petitioner herein is not entitled to the benefit of the enhanced compensation granted in the said appeal. Thus, the said Judgment has become final.

The said Judgment is sought to be reviewed by the petitioner. Along with the review application, the petitioner filed application in A.S.M.P.No.1636 of 2008 seeking to condone the delay of 1188 days in filing the review application.

This Court disposed of the said appeal by order dated 4-4-2005 where as the review petition along with the application to condone the delay is filed after lapse of 3 years i.e., on 5-8-2008. The reasons stated in the affidavit filed in support of the application to condone the delay is that the she came to know about enhancement of compensation in the appeal, and therefore, she is also entitled for the same relief and the delay in filing the review application is neither willful nor wanton and the delay of 1188 days in filing the review application be condoned. No particulars have been given as to when she came to know about the disposal of the appeal.

Having regard to the circumstances, we are of the opinion that the petitioner being a party to the appeal as 2nd respondent and this Court specifically observed that the appellants in A.S.No.1803 of 1999 alone are entitled for the benefit and as the petitioner herein who is the 2nd respondent

did not prefer any appeal challenging the judgment and decree of the reference Court, is not entitled to the benefit of the enhanced compensation granted in the appeal. However, we do not see absolutely any explanation for the inordinate delay. We are not inclined to condone the delay.

Accordingly, the delay application ASMP.No.1636 of 2008 is dismissed. Consequently, the Rev.ASMP (SR) No.7842 of 2008 also stands dismissed at the SR stage.

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V. ESWARAIAH,J

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K.S.APPA RAO,J

DATE:08-12-2011
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THE HON'BLE MR JUSTICE V ESWARAIAH

AND
THE HON'BLE SRI JUSTICE K.S.APPA RAO

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(The order of the Bench delivered
by Hon'ble Sri Justice V.Eswaraiah)

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